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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/973,416	11/14/1997	MORIO HARA	13700-0176	6879

7590

04/17/2003

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EXAMINER

KRUER, KEVIN R

ART UNIT	PAPER NUMBER
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1773

DATE MAILED: 04/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

08/973,416

Applicant(s)

HARA ET AL.

Examiner

Kevin R Kruer

Art Unit

1773

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 10 April 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: NONE.

Claim(s) objected to: NONE.

Claim(s) rejected: 1-13, 20-22 and 24-31.

Claim(s) withdrawn from consideration: NONE.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: see attached

Advisory Action

Applicant's arguments filed April 10, 2003 have been fully considered but they are not persuasive. Applicant argues that the claimed invention is disclosed in the specification. Specifically, Applicant argues that the specification (on page 6) discloses that "C component is preferably carried out at a temperature not lower than the melting temperature of the C component in the same manner as the kneading of the component A and B component." However, Applicant has no grounds for making the conclusion that the above disclosure supports the limitation "at a temperature lower than the melting temperature of the water insoluble thermoplastic resin compound and equal to or higher than the melting temperature of the hydrophobic thermoplastic resin." To the contrary, one of ordinary skill in the art could just as easily conclude that "in the same manner" means that the components should be kneaded "at a temperature not higher than the melting point or decomposition temperature of the A component and not lower than the melting temperature of the B component by an appropriate kneading machine. (see page 6, lines 8+ of the specification)." Thus, the examiner maintains the position that the original disclosure does not disclose to one of ordinary skill in the art a method/composition wherein the components are kneaded "at a temperature lower than the melting temperature of the water insoluble thermoplastic resin compound and equal to or higher than the melting temperature of the hydrophobic thermoplastic resin."

Applicant further argues that if B component melted during the kneading of components A, B, and C, then A and B would be individually dispersed in C. Thus, B component would no longer protect A component from oxygen gas, as disclosed on

page 12 of specification. The examiner respectfully disagrees. The hydrophilic properties of components A and B would cause component A to be dispersed in component B, regardless of the temperature at which they were kneaded. Thus, Applicant's arguments are not persuasive.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin R Kruer whose telephone number is 703-305-0025. The examiner can normally be reached on Monday-Friday from 7:00a.m. to 4:00p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Thibodeau, can be reached on (703) 308-2367. The fax phone number for the organization where this application or proceeding is assigned is 703-305-5408.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

KRK
krk


Paul Thibodeau
Supervisory Patent Examiner
Technology Center 1700